

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Commonwealth Edison Company

Approval of Energy Efficiency and Demand
Response Plan Pursuant to Section 12-103(f)
of the Public Utilities Act

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No. 07-0540

INITIAL BRIEF OF THE ILLINOIS INDUSTRIAL ENERGY CONSUMERS

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The Illinois Industrial Energy Consumers are a diverse group of large electricity consumers, including Abbott Laboratories, Inc., Caterpillar Inc., Ford Motor Company and Enbridge Energy, LLP, participating in this case. They will refer to themselves in this case as the Illinois Industrial Energy Consumers (“IIEC” or “IIEC Companies”). Pursuant to Section 200.800 of the Rules of Practice (83 Ill. Adm. Code Part 200.800) of the Illinois Commerce Commission (“ICC” or “Commission”) and the briefing schedule set by the Administrative Law Judge (“ALJ”), the IIEC Companies named above present their Initial Brief in this docket for the Commission’s consideration.¹

¹Citations in this Brief will identify the witness, the party, the exhibit number, page number and line numbers. A sample citation follows: Stephens, IIEC Ex. 1.0 Corr. at 5:100-101.

I.

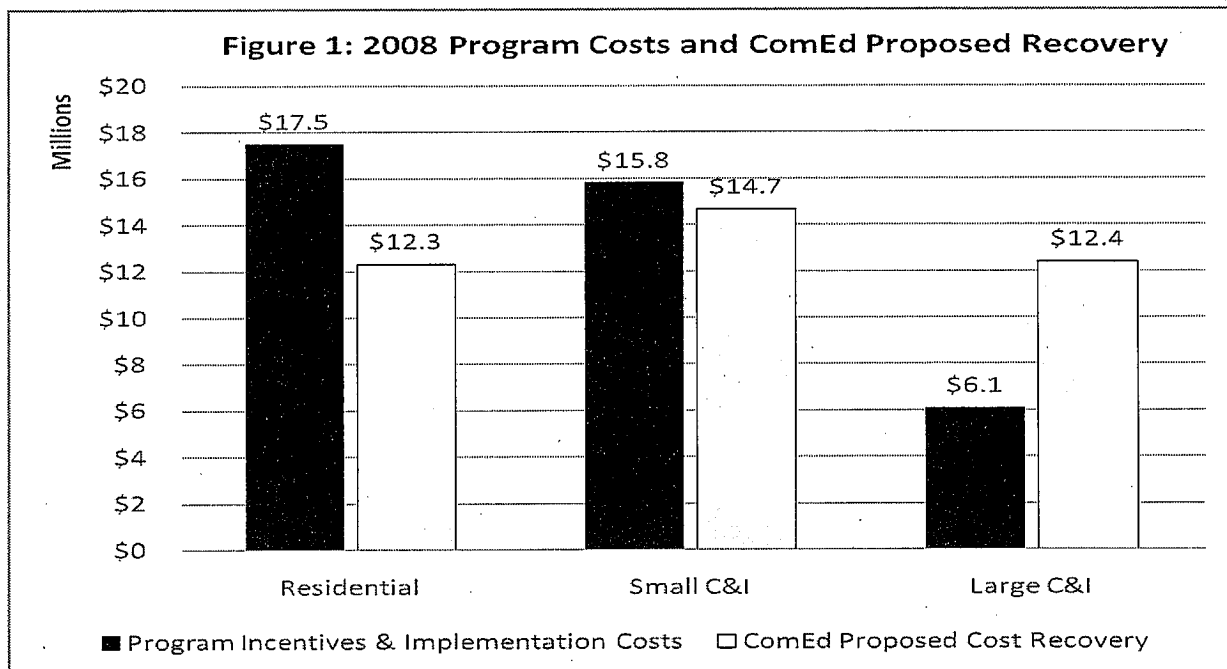
INTRODUCTION

This proceeding was initiated by Commonwealth Edison Company ("ComEd" or "Company"), pursuant to Section 12-103(f) of the Public Utilities Act ("PUA") (220 ILCS 5/12-103(f)). Pursuant to that section, ComEd was required to present an Energy Efficiency ("EE") and Demand Response ("DR") Plan that included:

... a proposed cost-recovery tariff mechanism to fund the proposed energy efficiency and demand-response measures and to insure the recovery of the prudently and reasonably incurred costs of Commission-approved programs (Energy Efficiency and Demand Response Programs). (220 ILCS 5/12-103(f)(6) (explanation added)).

The cost-recovery tariff mechanism ("recovery mechanism") proposed by ComEd would collect program costs from all customers through a uniform cents per kWh charge applied to all electric energy delivered, regardless of whether those customers participate in the programs or purchase their electric energy from ComEd, and regardless of whether the program expenditures directly benefit them or others in their respective classes.

IIEC Companies in this proceeding generally support energy efficiency and demand response programs. However, they are seriously concerned with the recovery mechanism proposed by ComEd. They believe that ComEd's proposal is neither just nor reasonable, as those terms are used in Article IX of the PUA. (220 ILCS 9-101 et. seq.). In any event, the proposal is inequitable in that there is a mismatch between program costs and cost recovery. That is, some classes are required to pay charges for programs well in excess of the dollar value of the programs designed and implemented for that class - - as much as double in some cases. (Stephens, IIEC Ex. 1.0 Corr. at 10-11; Figs 1-3). Figure 1 below illustrates this inequity:



Therefore, IIEC has proposed a modified cost recovery mechanism that better matches program costs and collections for affected customer classes. The IIEC approach allocates the cost of EE-DR Programs to the customer classes for which the EE-DR Programs are designed and implemented. IIEC's proposal will still allow ComEd to recover the prudently and reasonably incurred cost of providing its EE-DR programs, as required by Section 12-103(f)(6) of the PUA. (220 ILS 5/12-103(f)(6)).

IIEC's proposal also does not affect ComEd's selection of programs to be deployed over the relevant planning period. It maintains ComEd's flexibility to adjust its plan and the charges applicable to each class of customers, to reflect the programs and actual program costs attributable to customers within those classes as programs are revised. IIEC's approach will

neither increase nor decrease the amount of energy saved through the various programs. (Stephens, IIEC Ex. 1.0 Corr. at 227-228).

For the reasons described below, IIEC recommends that the Commission reject the recovery mechanism proposed by ComEd and adopt instead IIEC's modified cost recovery mechanism.

II.

ARGUMENT

A. IIEC's Cost Recovery Mechanism Should Be Adopted

The objective of IIEC's cost recovery mechanism is to balance program costs with cost recovery, by class and for each year. To illustrate, if the programs designed and implemented for a particular class account for 25% of the program costs, then that class should be responsible for 25% of the cost recovery. (Stephens, IIEC Ex. 1.0 Corr. at 12:196-200). The estimated charges under IIEC's cost recovery mechanism accomplish just that, using ComEd's program spending estimates and expected customer class consumption levels. IIEC's proposed changes are compared to ComEd's uniform charge in Table 1 below:

TABLE 1
ESTIMATED UNIT CHARGES FOR COST RECOVERY
(CENTS PER KWH)

CLASS	2008	2009	2010
Residential	0.06	0.12	0.17
Small C&I	0.05	0.08	0.14
Large C&I	0.02	0.06	0.08
ComEd Charge	0.04	0.09	0.13

Id. at 13, Table 2; (See, ComEd Ex 1.0 at 29, Table 9).

Under the IIEC proposal, cost recovery is not intended to be fixed throughout the course of the plan. To the extent ComEd shifts its program focus over time, the charges can be modified in accordance with ComEd's updated program costs. If assumptions as to class participation levels are refined based on experience, it would be appropriate to modify the class charges as well to reflect changes in the focus of ComEd programs. (*Id.* at 13:213-223). IIEC's approach is well documented in the record and provides for this flexibility. (*See*, Stowe, IIEC Ex. 2.0 Corr. at 6-18:106-335).

The IIEC approach should be adopted in this proceeding for reasons that are discussed in greater detail below. First, unlike the ComEd approach, the IIEC cost recovery mechanism properly recognizes the differences between customer classes. Second, the IIEC cost recovery mechanism more closely matches the costs of those programs and cost recovery. Third, the IIEC approach gives the utility the opportunity to recover prudently and reasonably incurred costs associated with its EE-DR Programs, while preserving flexibility to alter, amend, modify, change, delete or add to those programs, with ICC approval, over the relevant planning period. Fourth, the IIEC approach is more consistent with the Commission's preference for cost based rates.

1. IIEC Proposal Properly Recognizes Class Differences

IIEC witness Stephens testified that while ComEd has directed distinctive EE programs to the Residential class and to the combined Commercial and Industrial ("C&I") classes, it treats all customers as one class for the purposes of cost recovery. (Stephens, IIEC Ex. 1.0 Corr. at 3:61-66). That is, ComEd proposes to recover the combined cost of all programs on the basis of a single per kWh charge, uniformly applied to each customer class, without regard to the

distinctive programs (and associated costs) ComEd has designed for various customer classes.

ComEd has already sensibly recognized the differences in the types of individual EE measures (residential, commercial and industrial) contained in its Plan. For example, ComEd has associated compact fluorescent light bulbs, energy efficient appliances, and residential heating and air conditioning measures with the residential class. It has proposed measures relating to compressed air, process heating, and machine drives for the industrial class. (Stephens, IIEC Ex. 1.0 Corr. at 4:71-79; *see also*, ComEd Ex. 1.0 at 24, Table 8).

No witness in this proceeding disputes that ComEd's programs and measures appropriately recognize differences in electricity usage among customer classes. ComEd sensibly designed programs/measures, for those individual classes, on the basis of those differences. ComEd's rates have traditionally reflected such differences in customer usage characteristics and any resulting cost differences. (*Id.* at 4:80-91). For example, prior to January 2, 2007, ComEd's own bundled service rates reflected these differences. Rate 1 was the principal rate for residential customers, Rate 6 was the principal rate for commercial customers (non-residential customers with demands less than 1 MW) and Rate 6L was the principal rate for industrial customers (non-residential customers with demands 1 MW or more). (*Id.* at 4:83-89).

ComEd's current delivery service rates also distinguish between residential and non-residential customers, and in the non-residential class ComEd's rate structure further divides customers in that class on the basis of customer demand levels (*e.g.*, less than or greater than 100 kW, 400 kW, 1 MW and 10 MW). (*Id.* at 4-5:92-96).

However, as noted, ComEd has failed to recognize any of these class differences in its proposed cost recovery approach. ComEd ignores the fact that under its EE-DR plan, different

programs and measures apply to different customer classes. To correct this defect, IIEC has proposed a cost recovery mechanism that does reflect those differences, by assigning each customer class responsibility for its expected program costs and using those costs to develop a separate per kWh charge for each customer class Residential, Small C&I (customers with demands of less than 1MW), and Large C&I (customers with demands of 1 MW or more). (*Id.* at 6:116-127).

IIEC's proposed customer groupings for non-residential cutomers (Small C&I and Large C&I) are consistent with the break point between Large Load customers (electrical demands of less than 1 MW) and Very Large Load customers (electrical demands of 1 MW or greater) in ComEd's current delivery service rate structure. (*Id.* at 6:131-132). It is also consistent with ComEd's own prior proposal to place all customers 1 MW and over and served at standard voltage into a single class. (*Id.* at 6:fn. 2). Finally, as previously noted, it is inconsistent with ComEd's long-standing break point between bundled Rate 6 and Rate 6L classes. (*Id.* at 6:129-131).

IIEC notes that the Federal Energy Regulatory Commission's accounting practices and the ICC's reporting and accounting practices, also distinguish between customer groups using a break point of 1 MW. (*Id.* at 6:125-127; 7:134-141). Furthermore, the IIEC approach is consistent with ComEd's current billing practices. (*Id.* at 7:142-145).

Finally, the IIEC approach also corrects the same defects in Ameren's similar EE-DR Plan and is consistent with current Ameren rate class definitions as well as IIEC's recommendation in the Ameren Energy Efficiency case, ICC Docket 07-0539. (*Id.* at 7:fn. 5). Therefore, it would be an efficient break point on a statewide basis. ComEd has not disputed the

appropriateness of IIEC's recommended break point for customer classes.²

The circumstances described above impel adoption of IIEC's cost recovery mechanism, so that the identified class differences are properly recognized in assigning cost responsibility for EE-DR programs and measures and in the cost recovery mechanism used to recover the utilities' reasonably and prudently incurred costs.

2. IIEC's Cost Recovery Mechanism More Closely Matches Program Costs and Cost Recovery

Using three customer classes based on ComEd's program designs (*viz.*, Residential, Small C&I and Large C&I) and data provided in ComEd's plan and testimony, IIEC's witnesses were able to determine the program costs and energy usage attributable to each class. This information allowed them to compare program costs and cost recovery, on a customer class basis.

IIEC witnesses were able to determine energy consumption levels for each class. ComEd proposes a single kWh charge, in each year, applicable to all customers equally for its cost recovery mechanism. Therefore, the cost recovery from each class for each year will correspond directly to the percentage of energy delivered to that class. (*Id.* at 8:153-156 and Table 1; Stowe, IIEC Ex. 2.0 Corr. at 4-6:66-104). IIEC's witnesses also determined program costs for the various customer classes using the program descriptions in ComEd's Plan. (Stowe, IIEC Ex. 2.0 Corr. at 6-15:105-304).

IIEC's comparison of class program costs and class cost recovery under ComEd's

²IIEC further notes that BOMA has used a 1 MW break point as one of the break points in its cost recovery proposal. (BOMA Ex. 1.0 at 7-11:135-218; BOMA Ex. 1.3). If IIEC's approach is not adopted, the BOMA approach would be preferable to ComEd's approach.

proposed cost recovery mechanism showed that in 2008 the Large C&I class would receive energy efficiency programs and measures valued at \$6.1 million, but pay \$12.4 million in charges. On the other hand, the Residential class would receive \$17.5 million worth of programs and measures, while paying only \$12.3 million in charges. (Stephens, IIEC Ex. 1.0 Corr. at 9-11:173-184, see. Fig. 1 in this Brief, *Supra*). IIEC's analysis also demonstrated that the disparity, between program costs and cost recovery for the Large C&I class, under the ComEd approach, would increase in subsequent years. (*Id.*).

Such a disparity is unfair. Customer classes should not be required to pay for programs and measures unavailable to members of that class. Such inequities are especially objectionable when a cost recovery mechanism that more closely matches cost to cost recovery is available and technically feasible.³ IIEC has proposed such a mechanism in this proceeding. As ComEd acknowledges, IIEC's proposal recognizes that it is not practical to directly assign the entire cost of EE measures and programs to participating customers alone. (*See*, Crumrine, ComEd Ex. 11.0 at 7:151-154). Similarly, the Commission should not let the perfect be the enemy of the good. While IIEC's proposal may not achieve a perfect match of costs and recovery on a customer by customer basis, it is a meaningful and appropriate improvement over ComEd's unfair, simplistic approach that exacerbates the inequities. In stark contrast to its present philosophy in ComEd's last delivery service rate case, ComEd recommended the adoption of a cost recovery mechanism, conceptually similar to IIEC's proposal in this case to mitigate the effect of the mismatch it

³ It is important to note that no witness for ComEd in this proceeding has indicated that there is any technical barrier to the imposition of IIEC's cost recovery mechanism.

found in subsidies associated with Rider GCB. (Crumrine, Tr. 184, 188).

Because IIEC's cost recovery best matches program costs and cost recovery, IIEC's proposal should be adopted instead of the ComEd uniform charge.

3. IIEC's Approach Gives the Utility the Opportunity to Recover Prudently and Reasonably Incurred Costs and the Flexibility to Modify, Add To or Change its Programs Over the Relevant Planning Period.

IIEC's recovery mechanism does not dictate or constrain the programs to be deployed by the utility to any class over the three year plan period. Such decisions are left to the utility and the Commission. Under IIEC's approach, cost recovery follows program implementation not the reverse. The Company knows the types and costs of programs to be funded for each class in a particular year, and, under the IIEC approach, that knowledge will determine the class recovery charge. ComEd will retain the flexibility it claims it needs to meet mandated megawatt hour target reductions. (Stephens, IIEC Ex. 1.0 Corr. at 14:228-233; Brandt, ComEd Ex. 2.0 at 35-39:795-879).

IIEC's cost recovery mechanism also does not affect the total cost recovery for the Company's EE-DR programs. ComEd will recover the same amount of program costs under IIEC's proposal as it does under its proposed mechanism. No witness for ComEd contends otherwise. Because IIEC's approach does not impact or hinder any aspect of the Company's planning or implementation of its programs, it does not decrease the energy or demand reductions anticipated by Company.

Thus, IIEC's cost recovery mechanism permits recovery of the Company's reasonably and prudently incurred program costs, and does not impair the flexibility needed to implement new or modified programs and measures in order to achieve applicable energy savings goals.

4. IIEC's Cost Recovery Mechanism Better Reflects Cost of Service Principles.

As ComEd acknowledges, IIEC's cost recovery mechanism more closely reflects the traditional cost of service ratemaking principles established by this Commission than does ComEd's approach. (Crumrine ComEd Ex. 11.0 at 4:82-85 -- "IIEC essentially proposes to apply the traditional ratemaking principle of allocating cost to the cost causers by establishing three separate cent per kWh charges, one for each group"). As explained above, IIEC's approach assigns cost responsibility for various programs to the customer classes for which the programs are designed and implemented. On the other hand, ComEd's uniform cents per kWh charge recovers the combined cost of all EE programs from all customers on the basis of energy delivered to individual customers.

Staff witness Lazare supports ComEd's proposed cost recovery scheme and refers to these EE-DR program costs as "usage related," (Lazare, Staff Ex. 3.0 at 3:56-57). However, he admits that they are not, in fact, caused by customers' usage. (Lazare, Tr. 136). The costs do not increase with more customer usage or decrease with reduced customer usage. (Lazare, Tr. 136-137). Staff Witness Pearce's description of these costs confirms that they are not related to energy delivered or used. According to Ms. Pearce, ComEd's Rider EDA allows ComEd to recover incremental costs of its EE-DR measures which include but are not limited to:

"(a) fees, charges, billings, or assessments related to the Measures; (b) costs or expenses associated with equipment, devices or services that are purchased, provided, installed, operated or maintained or monitored for the measures; (c) the revenue requirement equivalent of the return of and on capital investment associated with a Measure . . .; and (d) all legal and consultative costs associated with the Measures

* * * *

. . . incremental expenses for wages, salaries and benefits of
Company employees . . ."
(Pearce, Staff Ex. 2.0 at 4:56-72 quoting Rider EDA - ComEd Ex.
1.0, App. F.)

Clearly, these costs (even when aggregated for all customers) are in no way a function of electricity delivered or used by a customer or a class of customers. Mr. Lazare is simply wrong in his assertion that the program costs are usage related in any respect that has any bearing on proper cost recovery. He simply assumed without any empirical evidence to support his assumption, that all customers and customer groups would benefit equally from the costs incurred for the EE-DR plan.

The costs of the EE programs ComEd proposes for each class are estimated as part of ComEd's proposed Plan. These costs are not the same for each customer class, but vary with the distinctive programs being implemented. (Lazare, Tr. 138). Because ComEd, nonetheless, proposes to collect the costs in question on a uniform cents per kWh basis from all customers, across all customer classes, and regardless of whether the underlying program costs are associated with customers in a particular class, ComEd's approach inevitably results in the creation of class cross subsidies. IIEC's approach eliminates these class cross subsidies, and better reflects cost of service principles.

Illinois utility rates have traditionally reflected a similar allocation of costs at the customer class level, with average or uniform rates within the class. This recognition of major cost of service differences among customer classes is how the Commission has achieved a balance between the cost of determining and recovering ever more detailed cost allocations and the Commission's policy of cost based rates. IIEC's proposal moves the recovery of EE-DR

program costs to that balance, while the ComEd proposal would not.

B. ComEd Articulates No Rational Basis for Its Cost Recovery Mechanism

Having discarded cost-causation as a rate design principle, ComEd fails to articulate any alternative objective basis for its rate proposal. ComEd has failed to develop a mechanism for cost recovery consistent with cost of service principles or any other rational criterion supported by evidence in this record. A per kWh charge is merely an arithmetic calculation, not a basis for rate design decisions and, as mentioned above, is counter to ComEd's approach in recent cases.⁴ ComEd's approach is arbitrary and unjust and unreasonable, and it should be rejected.

1. ComEd's Recovery Scheme Is Not Consistent with Plan Benefits or with Energy Savings, as an Alternative to Cost Causation

ComEd ignores the fact that all customers and customer classes do not benefit equally from its proposed EE Programs. (See, Crumrine-ComEd Ex. 11.0 at 6:149-152). Indeed, ComEd's approach makes no attempt to apportion responsibility for recovery of program costs on the basis of benefits received by customers or customer classes, as an alternative to a cost basis. Direct benefits, as defined by ComEd, do not accrue to all customers -- only to program participants. (Crumrine, Tr. 180-181; Crumrine, ComEd Ex. 11.0 at 7:149-152). Consequently, the distribution of such benefits across customers and customer classes is unavoidably unequal.

ComEd does argue that non-participating customers receive indirect benefits (*Id.* at 7:156-162). According to ComEd, these indirect benefits take the form of relief on the upward pressure on market prices for electricity and accrue to all customers. (*Id.* at 7:155-156).

⁴Even if the Commission may believe ComEd's approach is just and reasonable, IIEC's approach is the better and fairer approach.

However, the record establishes that neither ComEd, the Staff, nor any other participant has actually estimated that alleged price effect. Nor has ComEd attempted to quantify any indirect benefits that may flow to particular customer classes. (Crumrine, Tr. 182).

Perhaps these indirect benefits have not been quantified because the touted effects are too ephemeral or insignificant to be captured. The electricity market in which any beneficial effect of the programs would have to be achieved is the PJM market. (IIEC Grp. Ex. A - ComEd Resp. to IIEC Dr. 2.4). The projected energy savings from ComEd's plan are unlikely to actually effect significant downward pressure on prices, price decreases, or diminished upward pressure on prices, as suggested by ComEd and others. (See, Crumrine, ComEd Ex. 11.0 at 7:156-158; Lazare, Staff Ex. 3.0 at 5:105-107).

The PJM market has a peak demand of 144,644 megawatts. (Crumrine, Tr. 182). In 2006, the total quantity of energy delivered in the PJM market was approximately 729 million MWh for 2006. (Crumrine, Tr.183).⁵ The expected energy savings from the ComEd plan in 2008, for example, amounts to 189 thousand MWh. (ComEd Ex. 1 at 2). It is difficult to conclude the reducing consumption by less than 0.03% (i.e., 3 hundredths of one percent) of the market volume⁶ will have any significant impact on prices for non-participating customers. In contrast, the plan may help improve prices for customers buying electricity from ComEd, mainly through changes in class usage profiles that affect ComEd's regulated rates. (Stephens, IIEC Ex. 1.0 Corr. at 11-12:145-192). However, because IIEC Companies in the Large C&I class are not

⁵ Mr. Crumrine affirmed 729 million MWh as the correct figure, though the transcript reflects some confusion on the conversion of a GWh figure. (Crumrine, Tr.183).

⁶ $189,000 \text{ divided by } 729,000,000 = 0.00026$

eligible to purchase electricity from ComEd, even this indirect benefit will not be available to them. (*Id.* at 1:12-14). These potential benefits for these customers do not rely on any minuscule movement in overall PJM market prices, and these are much more direct.

In any case, any such indirect benefits are small in comparison to the direct benefits that will accrue to participating customers within a class. ComEd's Plan documents unequal direct benefits, between, and even within, customer classes. (*See, e.g.,* ComEd Ex. 1.0 at 5, Table 2) These differences in direct benefits, which dominate any assessment of total class benefits, would also support IIEC's distinctive class recovery charges.

The Staff rate design witness, Mr. Lazare, believes that cost recovery should be based, in part, on the distribution of benefits. (IIEC Grp. Ex. A, Staff Resp. To IIEC 1st Dr, Item 1.5(a)). Yet, Staff supports ComEd's proposal -- despite the fact that, as noted above, ComEd's cost recovery mechanism is not based upon the distribution of benefits. Moreover, Staff has not attempted to quantify the various types of expected benefits to enable the design of a cost recovery mechanism on that basis. (Lazare, Tr. 134-135). And, neither Staff nor ComEd has determined the distribution of expected benefits among customers or customer classes. (Lazare, Tr.135; Crumrine Tr. 182). Thus, the record evidence, which shows unequal class benefits, cannot support ComEd's proposed uniform charge.

ComEd also has not attempted to allocate cost responsibility on the basis of plan results (energy savings), as an alternative to cost-based charges. ComEd's proposed plan provides estimates of widely disparate expected energy savings for the various customer classes. (Lazare, Tr. 137-138; ComEd Ex. 1.0 at 5, Table 2 App B). ComEd's uniform per kWh charge recovers program costs on the basis of energy delivered. By definition, recovering costs on the basis of

energy delivered does not recover costs on the basis of energy saved, which is the objective of the EE programs in the ComEd plan. Therefore, ComEd's approach does not allocate costs on the basis of results.

2. ComEd's Recovery Scheme Creates Rather Than Mitigates Cross Subsidies

Because of the admitted unequal distribution of direct program benefits and energy savings, the absence of any quantification of (likely insignificant) indirect benefits, and the disregard for class or customer cost causation, a uniform per kWh charge cannot reasonably be deemed to correspond with any objective criterion documented in the record. The dominance of disparate costs and direct benefits makes subsidies among customers and customer classes unavoidable under the ComEd approach. IIEC's approach eliminates or mitigates these customer class subsidies and inequities.

In other cases, ComEd has argued strenuously for rates based on the principle of cost causation. (*See, e.g., Commonwealth Edison Company, ICC Dkt. 05-0597, Order, July 26, 2006 at 167 - "ComEd contends that . . . It is imperative that the Commission adhere to established cost- causation principles and reject arbitrary methods of allocating costs."*). Also, ComEd has, in other instances, sought to eliminate subsidies and to minimize the effects of subsidies when they cannot be eliminated. (Crumrine, Tr. 187, 189-193). IIEC's proposal would accomplish precisely those objectives. While maintaining the simplicity of a uniform charge within classes, the IIEC proposal would confine the effect of any subsidies in the proposed plan within defined

customer classes, on the basis of class costs.⁷ No party to this proceeding has argued that it would be inappropriate to so contain these subsidies. Indeed, IIEC's mechanism gives recognition to the indirect benefits ComEd says all customers will receive, by requiring non-participants within a class to pay for programs in which they do not participate, but it mitigates, on a class basis, the cross subsidy impact by doing so.

C. Cost of Service Principles Are Relevant and Applicable to the Proposed Charges

ComEd will argue that cost of service principles are irrelevant to the determination of an appropriate cost recovery mechanism because it is obligated under Section 12-103 of the PUA to meet the energy savings goals established by the legislature. This ratemaking approach, if accepted, would leave ComEd free to select cost recovery bases at its whim. ComEd misconstrues Section 12-103, which does not discuss or mandate any particular form of cost recovery. Moreover, Section 12-103 is only one provision of the PUA. Elsewhere, the PUA expressly mandates that all tariff rate changes be just and reasonable, not arbitrary and delivery service rates are based on cost.⁸ (220 ILCS 5/9-101; 5/16-108(c)).

The Commission's established strong preference for cost based rates is also ignored by

⁷While IIEC has chosen not to dispute the proposed recovery of costs on a simple usage-based charge within classes, IIEC does not concede that the energy efficiency and demand response programs which are mandated to avoid or delay "the need for new generation, transmission, and distribution infrastructure" (*See*, Section 12-102(a)), could not be recovered over some other basis, such as demand, in the future.

⁸Indeed, Section 12-103 references to recovering "reasonably and prudently incurred costs", strongly suggests that Article IX considerations should apply. In fact, it is a goal regulated under the Public Utilities Act that utility service be provided to customers through rates that accurately reflect cost of service to recover prudently and reasonably incurred costs. (*See*, 220 ILCS 5/1-102(a)(iv)).

ComEd. Although there have been instances where compelling facts have led the Commission to subordinate strict adherence to cost of service principles to other ratemaking considerations, ComEd and Staff have presented no evidence or policy basis for ignoring established Article IX ratemaking principles in this proceeding.⁹

Staff's Mr. Lazare admits that a severe imbalance between class EE-DR program costs of service and class recovery under a uniform charge would not be reasonable. However, the evidence presented by the parties supporting a uniform charge does not evaluate ComEd's proposal from that perspective. Staff casts EE-DR costs as usage-related, a characterization Mr. Lazare muted significantly on cross-examination. (Lazare, Tr. 136-137).

D. ComEd Has Identified No Valid Substantive Reason for Rejecting IIEC's Cost Recovery Mechanism

ComEd's testimony presents only one substantive reason for rejecting IIEC's proposed cost recovery mechanism -- its wholly unsupported claim that IIEC's proposal would increase the administrative burden and cost of implementing ComEd's plan, detracting from actual program effort. (Crumrine, ComEd Ex. 11.0 at 5:98-100). However, a different ComEd witness has testified that the Company has not actually calculated or estimated the alleged additional costs (*See*, Brandt, ComEd Ex. 9.0 at 10:263-268), and ComEd was unable or unwilling to do so in response to IIEC's data requests. (IIEC Grp. Ex. A - ComEd Resp. to IIEC Dr. 2.1).¹⁰

⁹ ComEd's testimony is devoid of any discussion of unreasonable rate impacts or other accepted reasons for subordinating cost of service in the design of the cost recovery mechanism for its EE-DR Programs.

¹⁰ It is interesting to note that ComEd claimed at the time it filed its rebuttal testimony, it had not had time to calculate these costs and its inability to do so in response to data requests calls into question the legitimacy of any suggestion that these additional costs are in any way significant or would impair ComEd's ability to provide programs. ComEd is not bashful about

Furthermore, the record demonstrates that ComEd will have available to it all the information necessary to implement IIEC's cost recovery mechanism without substantial incremental administrative burdens. ComEd intends to ensure that all recipients of the various program incentives are ComEd customers and that no single customer will exceed the participation limits set forth in the program. (IIEC Grp. Ex. A, ComEd Resp. to IIEC Dr 3.1). ComEd plans to use customer account numbers as the principal control data in that effort. (Brandt, Tr. at 156). To administer and monitor its programs (including incentives), ComEd will require customer applications that include the customer's account number and address, which will be cross-checked against current accounts. (Brandt, Tr. at 156, IIEC Grp. Ex. A, ComEd Resp. to IIEC Dr 3.1).

ComEd has confirmed that through account numbers it will have access to all information needed to identify customers, their applicable rate schedule, and their class of service. (Brandt, Tr, 156-157). Thus, class by class determinations of the EE program costs incurred, the customers in each class, and the kWh billing units are readily available to the utility. ComEd's suggestion that IIEC's proposal will add significant administrative burdens and additional costs is not credible in these circumstances.

Finally, ComEd did make one other minor criticism of the IIEC approach. Mr. Crumrine suggested that IIEC was inconsistent in its approach should not have associated the costs of the Low-Income Residential Customer Program to the residential class. (Crumrine, ComEd Ex. 11.0 at 6:135-140). For 2008, this program is allocated \$2.3 million out of the \$39 million total costs.

seeking to recover the incremental costs associated with consulting and attorneys fees through Rider EDA even though paying such fees detracts from actual program efforts.

(See, ComEd Ex. 1.0 at 5, Table 2). First, there is no inconsistency in IIEC's approach. Obviously, these are residential programs and should be allocated to the residential class, just as Large C&I customers will be allocated costs for programs that benefit only some members of that class under the IIEC approach. Second, while IIEC does not concede that these costs should be recovered by classes other than the residential class, it notes that its cost recovery proposal would accommodate this as a common cost to be allocated to all classes, should the Commission so mandate. (See, Stowe, IIEC Ex. 2.0 Corr. At 7:135-140; 11:207-216).

III.

CONCLUSION

For the reasons stated above, IIEC's proposed cost recovery mechanism should be adopted by the Commission.

Respectfully submitted,

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